

**Conservation Commission
Minutes of July 28, 2016
Public Hearings
Mashpee Town Hall
Waquoit Meeting Room**

Commissioners: Bradford R. Sweet, Dale R. McKay, John R. Rogers, Robert C. Anderson, Ralph B. Shaw, Jr. and Louis DiMeo (Associate Member).

Call Meeting to Order: 5:55 p.m.

The meeting was called to order with a quorum by Chairman Brad Sweet at 5:55 p.m.

There was no public comment

PRE/POST-HEARING AGENDA:

Approval of July 14, 2016 Minutes

Motion: Bob Anderson moved to approve the July 14, 2016 minutes, seconded by John Rogers. Vote unanimous 5-0

Administrative Review: Proposed relocation of pool equipment - 80 Punkhorn Point Road (Order of Conditions 43-2792)

Resource Areas: LSCSF, buffer to coastal bank, BVW and salt marsh

Mark O'Hearn, Pools by Andrews, represented the applicant. He explained they are proposing to relocate the filter, pump and heater equipment away from the location against the residence, as was originally submitted. There is a code issue with setting the heater up against the house and being too close to windows. Mr. O'Hearn explained they are proposing two alternate locations which he noted on the plan.

The Agent reviewed the two proposed locations and recommended having the equipment located in the first area closest to the driveway given that area has already been disturbed due to construction access. This area lies within the buffer zone and won't be in the coastal bank.

No comments from the public.

Motion: Mr. McKay moved to approve the administrative change as presented, seconded by Mr. Rogers. Vote unanimous 5-0

6:00 Paul A. and Cynthia A. Jalbert, 43 Monahansett Road. Proposed removal of deck and walkway to allow for additions of garage, deck and second story. RDA

Resource Area: Buffer Zone to Freshwater Wetlands

Cynthia Jalbert, owner, was present and explained the project is proposing the removal of a deck and walkway to allow for additions of a garage, deck and second story.

The Agent stated he has been out to the property for a site visit. He stated there are unidentified wetlands on the property and the delineation is not shown on the plan. He said the hearing will need to be continued until this information is submitted. Cynthia Jalbert requested the hearing be continued.

Motion: Mr. McKay moved to continue the hearing at the request of the applicant to August 11, 2016 @ 6:06 p.m., seconded by Mr. Rogers. Vote unanimous 5-0

6:03 Edward and Reesa Cohen, Trustees, 142 Fells Pond Road. Proposed removal of deck to be replaced with an addition and hardscape improvements. RDA

Resource Area: Buffer Zone to top of Inland Bank, Fells Pond

Cindy Cohen represented the applicants. She explained the proposed project was to add a screen porch where the deck is and add a patio.

The Agent noted the resource area. The sun porch is to be located in the same footprint as the deck with some hardscape improvements. No impact to the inland bank or Fells Pond; the project meets the performance standards. The Agent recommended a negative determination. It was noted they will be appearing before the Zoning Board of Appeals and the Board of Health's condition is that the sunroom must be unheated.

No public comments.

Motion: Mr. McKay moved for a negative determination, seconded by Mr. Shaw. Vote unanimous 5-0

6:06 43 Waterline LLC, 43 Waterline South Drive. Proposed Amendment to Order of Conditions 43-2863 with revisions to patio, pool and house footprint. At request of applicant continued from 6/23, 7/14/2016 to allow for revised plans. AOOC

Motion: Mr. McKay moved to continue the hearing at the request of the applicant to August 11 @ 6:03 p.m., seconded by Mr. Rogers. Vote unanimous 5-0

6:09 Jack G. Carter, Jr., 17 Monomoscoy Road West. Proposed demolition and reconstruction of dwelling NOI

Resource Area: LSCSF, Buffer Zone to BVW, Salt Marsh

Michael Borselli, Falmouth Engineering, represented the applicant. He explained the project includes the demolition and removal of the existing house and construction of a new residence. The construction will occur within the buffer of the wetland resources. He noted an adjacent parcel of land owned by Mr. Carter on the other side of Monomoscoy Road West, which is a private road, and Mr. Carter owns to the center line. A new upgraded septic system will be part of this work which will be sited further from the wetland resources than the existing septic system. Mr. Borselli explained the new house will be larger but will be no closer to the resource areas. He spoke about some issues he discussed with the Agent. There are three trees that need to be removed and are proposing some mitigation in the form of Eastern red cedars. He noted there is no native buffer between the house and the wetland and they are proposing to plant the mitigation between the house and the wetland area. They will be making improvements to the buffer

by providing native plantings along the wetland resources to create a vegetated buffer. The mitigation plantings were done in accordance with the Conservation Commission's mitigation table. Mr. Borselli noted they are proposing to rebuild the house somewhat bigger but still within the requirements and meeting the performance standards. He said, based on the Agent's concerns about doing work in land subject to coastal storm flow, they have the opportunity to further enhance the buffer with more shrub layer. Mr. Borselli spoke about moving the leaching facility to the contiguous lot. He said he received a memo from Glenn Harrington from the Board of Health with a punch list of items. He wants confirmation that the road is private, that Mr. Carter owns to the center line and that Mr. Carter has the right to put a pipe under the road. Mr. Borselli noted the project meets the performance standards.

The Agent noted his concerns on the property using photos that he took. He noted the trees could be affected by the construction. He noted the work limit stakes and said it needs to be clarified that the trees inside the work limit are not to be removed. He noted two more trees that could possibly be removed. He recommended to schedule an onsite visit to see what trees are to be removed. The Agent spoke about a waiver request which has criteria that the Commission must review when it comes to expanding footprints. He noted the home is a pre-existing, non-conforming structure. His recommendation would be to request a continuance and take a closer look at this and for the applicant to be very specific of the work limits and the number of trees to be removed.

Mr. Borselli said he will demonstrate on the revised plan all of the trees that are in question and how they relate to the stakes. He noted he needs a limit of work to plant the mitigation. There will be very explicit notes on trees to remain and trees to be removed.

Comments from the public.

Mr. Mike Chiampi, abutter, noted the proposed septic system is 16 feet off the side of his house. He asked why the reason for putting the leach field between the houses and destroying 4,000 to 5,000 square feet of vegetation. He suggested that the applicant could put the leach field 75 feet back with a variance or put the leach field in the road. He said there will be no privacy if the Town lets him put the leach field on the other lot.

The Agent recommended showing the details of what will be disturbed for the proposed leach field.

Mr. Borselli requested a continuance on behalf of the applicant.

Motion: Mr. Shaw moved to continue the hearing at the request of the applicant to August 25 at 6:00 p.m., seconded by Mr. McKay. Vote unanimous 5-0

6:12 Anthony J. Donato (Applicant), 6 Cricket Way. Proposed septic system upgrade Albino Marusich: Owner of Record

Motion: Mr. McKay move to continue the hearing at the request of the applicant to August 11, 2016 at 6:00 p.m., seconded by Mr. Shaw. Vote unanimous 5-0

6:15 Paul S. and Margaret K. Hovsepian, 13 Compass Circle. Propose demolition and reconstruction of dwelling and garage. NOI

Resource Area: LSCSF, Buffer Zone to BVW, Salt Marsh, Land Under Ocean

Thomas Bunker, BSS Design, represented the applicants. He described the project includes the demolition of the existing house and garage and replacement with a new house, approximately the same size, with a breezeway and garage. He said it is in an AE elevation 11. The existing septic system leach field will remain in place and a new septic tank must be installed and connected between the house and leach field. The driveway will be rerouted with trees to be removed. There will be drywells installed around the perimeter of the house. The trees to be removed are not marked on the plan.

The Agent asked why the driveway is being rerouted. There was a lengthy discussion of the location of the driveway and the garage and the loss of the trees. If the Commission approves the project, the Agent would like to see a detailed flagging in the field as to what trees are to remain. He said the Commission could condition compensatory planting. The Chair commented that he felt the driveway could be redesigned in such a way that it would take out less trees. The Agent said a plan requirement is to note all trees to be removed. His recommendation is to reduce the footprint of the driveway to save some of the trees and clearly mark the trees to be removed.

Mr. Bunker requested a continuance on behalf of the applicant.

Motion: Mr. McKay moved to continue the hearing at the request of the applicant to August 11 at 6:09 P.M., seconded by Mr. Shaw. Vote unanimous 5-0

6:18 Jason Stone, 156 Waterway. Proposed Amendment to Order of Conditions 43-2112 includes reduction in size of dwelling, addition of a bedroom and upgrade of septic system. AOC

Resource Area: Coastal Bank, LSCSF, buffer zone to saltmarsh.

Thomas Bunker, BSS Design, represented the applicant. He stated the original order of conditions was issued on May 9, 2002 to raze the existing house and build a new house. Several extensions have been issued since and the latest extension is to May 9, 2018. He said because of the flood zone and architectural changes they are filing a new plan for the proposed house and septic system. The original plan was for a three bedroom house and it is now increased to a four bedroom house with a new septic design. He said more native plantings are being proposed. There will be a continuous 27 foot wide buffer of native planting along the salt marsh. Dry wells will be installed to contain storm water roof runoff. A limit of work will be established with straw bales and/or a silt fence prior to the start of any demolition and construction. He showed the original plan for reference and then the proposed plan.

Andrew Garulay, landscaper, explained the proposed landscaping. They wanted to make sure no runoff would be going into Popponesset Creek. The drainage is a 4 inch wide channel which drains towards the wetland and pitches away from the pool into drains. Mitigation calculations were done by BSS Design. They will be converting the lawn into native vegetation. All the trees within the flood zone are not being disturbed.

The Agent suggested swapping out the juniper with bayberry. Mr. Bunker requested the Conservation Commission send a note to Board of Appeals regarding the setback of the deck and that it will have no impact.

No comment from the public.

Motion: Mr. McKay moved to approve the amendment to the order of conditions, seconded by Mr. Rogers. Vote unanimous. 5-0

6:21 Alan R. and Betsey L. Pratt, 12 Whippoorwill Circle. Proposed addition to an existing dwelling. RDA

Resource Area: Flood Zone, ACEC

Thomas Bunker, BSS Design, represented the applicants. The proposed project is to put a small addition onto the house. No trees will be disturbed and no increase in the number of the bedrooms.

The Agent said Board of Health doesn't require an application and he recommended a negative determination.

Motion: Mr. McKay moved for a negative determination, seconded by Mr. Rogers. Vote unanimous 5-0

Introduce Chad Smith: Board Member Candidate

The Agent noted Chad Smith has submitted a letter interest to the Conservation Commission and the Board of Selectmen to become a Conservation Commissioner and he is here to introduce himself. Chad Smith introduced himself and stated he wished to become a full time commissioner.

Motion: Mr. Bob Anderson moved to endorse Chad Smith as a Conservation Commissioner, seconded by Mr. Rogers. Vote 5-0

The Agent noted he will be sending the Commissioners' vote and endorsement to the Board of Selectmen for their approval.

Letter of resignation: Mark N. Gurnee

The Agent referred to Mr. Gurnee's letter of resignation dated July 21. The Agent noted all the good work Mark did for the Commission and stated he was a valuable asset to the commission.

Motion: Mr. Rogers moved to accept Mark Gurnee's resignation, seconded by Mr. Anderson. Vote 5-0

Mr. Gurnee stated he enjoyed working with the Commissioners and especially with the Agent. He said the Agent always presented the facts and never took a side and the Town is very lucky to have him. Mr. Rogers stated he wanted to express his appreciation for all that Mr. Gurnee has done, as did all of the Commissioners.

Update: Popponesset Spit access – Popponesset Bay Association/Save Popponesset Bay

The Agent spoke about the incident on the Fourth of July weekend at Popponesset Spit with the partying that took place and the cleanup effort. He said two posts have been erected at the parking lot at the end of Wading Place Road. It is owned by Mass Fish and Wildlife. He contacted Popponesset Bay and Popponesset Beach Association and they said they are blocking off the area to control the access. They have security out there during the summer months. He has a copy of a MOU regarding what took place and the hours of operation. There will be satellite parking at the club and the fishermen can walk down to the beach. It was noted that the fishermen are not the problem. Also noted was there is a need for be more Police presence. The Agent stated he would send a copy of the MOU to the Commissioners.

Discussion: Amending Conservation Land Bylaw Chapter 173, Regulation 1: boat docking on Conservation land beach areas – Johns Pond/Santuit Pond/Mashpee Wakeby

Mike Cotter, a resident of John's Pond and a steward at John's Pond stated a small group of people are making a mess for everyone else. He said they have had an influx over the last few years of out of town people with boats and jet skis. He explained they are using the Conservation area and he is picking up trash. They have now moved over to the fish ladder property and are using private property. Mr. Cotter said he notified the homeowners' association. He said they are tying off the boats to trees and the Harbormaster is aware of the situation.

The Agent noted there is nothing specific in the regulation regarding fines regarding boats on the beach. Motorized vehicles or docking of boats on beach is prohibited. This could be put added to the regulations. Mr. Cotter said he is open to the Commission's suggestions. He said the gate has been left open when it shouldn't be. He stated that there should be no tethering to the trees, no overnight camping, no leaving a boat overnight. He didn't want to make rules that would affect the people that abide by the rules. The Agent suggested making some changes to the Bylaw for adoption at town meeting.

Discussion: Request for proposals for Johns Pond fish ladder erosion control

The Agent said he is in the process of doing an RFP for the fish ladder at John's Pond. He noted it is entirely clogged.

Motion: Mr. McKay moved to adjourn, seconded by Mr. Rogers. Vote unanimous 5-0

Respectfully Submitted,

Judy Daigneault
Recording Secretary